

CUBA

BEFORE

THE UNITED STATES.

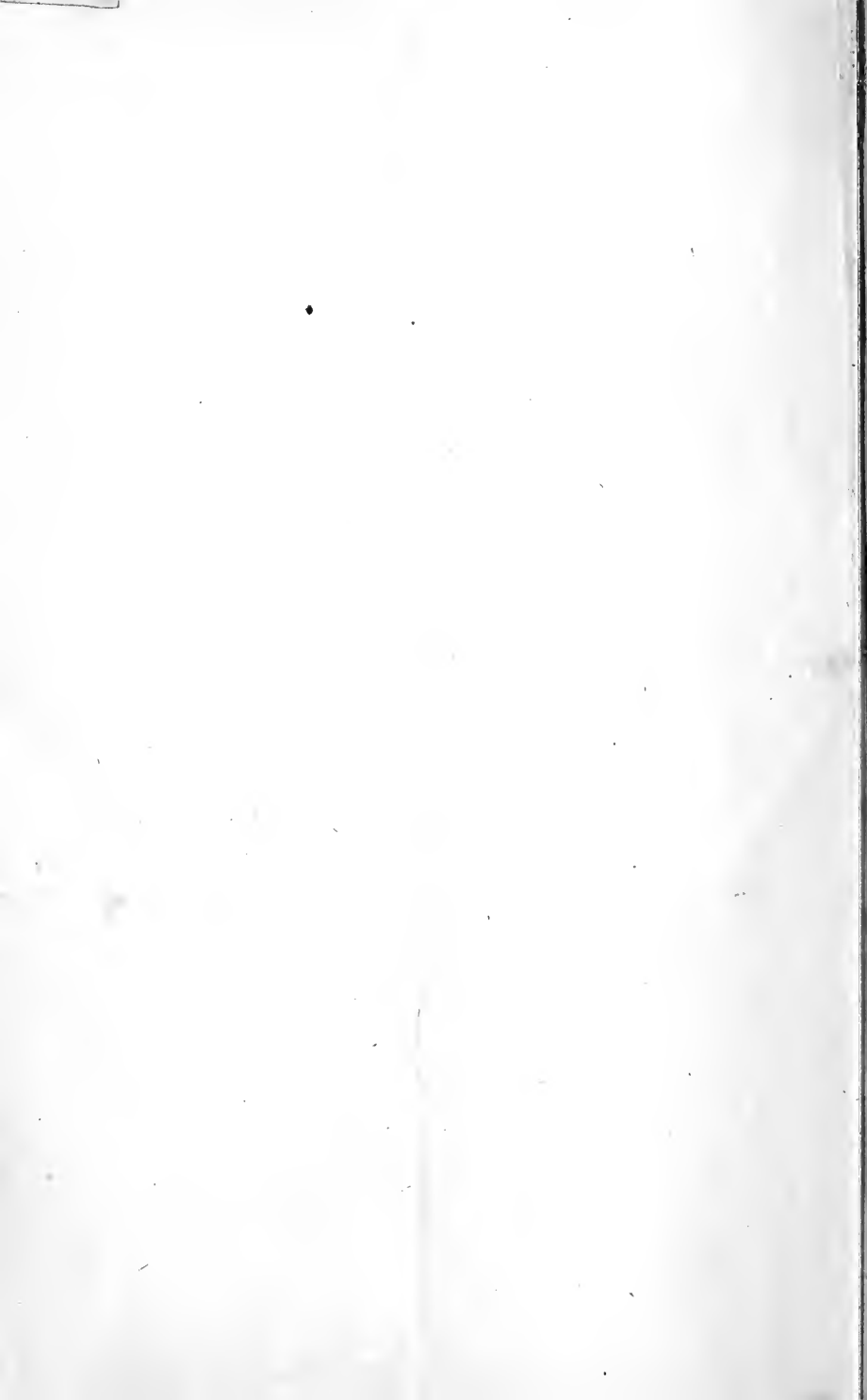
REMARKS ON THE HON. CHAS. SUMNER'S SPEECH, DELIVERED
AT THE REPUBLICAN CONVENTION OF MASSACHUSETTS,
THE 22D SEPTEMBER, 1869.

*(Adopted and approved by the Central Republican Junta of
Cuba and Porto-Rico.)*

NEW YORK:
STYLES & CASH, PRINTERS AND STATIONERS.

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CUBA BEFORE THE UNITED STATES.

WHEN, in the midst of the atmosphere of sympathy and good-will that prevails in this country for the Republic of Cuba, a strange voice is raised to attempt to smother this liberal sentiment, we can not but be affected as unexpectedly and disagreeably as if we heard a harsh discordant note in a melodious harmony. Then the astonished mind instinctively turns to seek the source of the discord, and to discover whence proceeds so un-American, illiberal, and unchristian a voice, that does not know how to sympathize, heart and soul, with the Cuban people in their struggle to force themselves from the grasp of Spain, whose tyranny they have suffered for more than three centuries.

If, upon investigation, it had been found that this voice was prompted by lucre, or based on mercantile calculations more or less selfish, the mind might perhaps have returned to its former tranquility and confidence, and, relying on the virtues of this great American people, overlooked and possibly forgot the painful interruption.

But when we recognize in that voice, so inimical to Cuba, that of a statesman whose talents and character place him in

a position as exalted as merited—the voice of Charles Sumner, the abolitionist, the republican leader, the senator of the great, illustrious, and cultivated people of Massachusetts—the impression is, indeed, affecting, and more difficult to erase.

We can, however, ascertain, in spite of this impression, that neither the Republic of Cuba nor the Cubans who reside in this hospitable land have ever feared that the feelings of the American people in favor of their cause would be diminished. No! they can not be afraid of it. The cause of Cuba is the cause of America against Europe—the cause of liberty against tyranny—the cause of justice against ignorance and iniquity.

The people who cherish with love and respect among their dearest political dogmas the principle generally known as the Monroe doctrine; the people of self-government, the victorious advocate of the rights of man and individual sovereignty; the people who have shed so much blood and sacrificed so many millions for the liberation and restoration to their natural rights of four millions of slaves, thus removing the only stain that tarnished their splendor; the people who have diffused the Christian civilization above all, and carried, with the stars and stripes of their glorious flag, ideas of liberty and manly independence; can this people ever sympathize with the old oppressor of America—Spain—the bigoted, intolerant, and persistent upholder of slavery and slave-trade, whose history of the war waged in Cuba during the past year is stained with so many crimes and horrors?

No! the poignancy of the hostile words of Charles Sumner comes not from the fear that the American people, or the distinguished orator himself, can have other than sentiments of

repugnance toward Spain. These feelings will, perhaps, be more or less perceptible or avowed, but never less intense. Spain is thoroughly conscious of the fact herself, because her own instincts make known the fact they are well-deserved.

But this vacillating and delaying manner in the assistance we solicit of the American Government, and which this country fervently desires, because it is consistent with its principles, sentiments, and convenience, postponing the aid to which our newly-born Republic has so many indisputable claims, bring forth sad and deplorable consequences, viz., the unavailing shedding of generous blood, the destruction and ruin of wealth in the island, and the continuation of the horrors of Spanish warfare, which offer to the astonished world a dark theme of scandal and shame.

The Hon. Charles Sumner can not, nor does he, sympathize with Spain, a nation that has dethroned one dynasty only to go, like a poor beggar, on the fruitless errand of searching among the would-be monarchs of Europe one who would deign to accept a crown trammelled as it would be with the conditions of the old *regime*, the habits and prejudices of the very same men, and the deficiencies of the same institutions—a domineering community clinging to its errors, so that they will even now uphold slavery, establishing on it a tax which insures the existence of that inhuman institution for at least five years to come.

The Hon. Charles Sumner only wishes to restrain, slightly, the noble impulse of the American people, and check the magnetic attraction which draws them toward us. He wishes to wait for the proof of two facts which he considers neces-

sary. Should such proof actually exist—could it be placed before his eyes with that degree of evidence wanted for conviction—sure it is that his great intelligence would not hesitate a moment, but be guided by its instincts in obedience to his natural sympathies. The honorable senator from Massachusetts will then become (it is to be expected) the most decided champion, the most fervent friend of the Republic of Cuba.

This, and no other, is, in our mind, the right interpretation of his discourse, delivered on the twenty-second day of September, 1869, at the Republican Convention of Massachusetts.

Before recognizing or granting belligerent rights, he desires that the belligerence be proved. "*It must be proved.*" Before taking a decisive step in favor of the Cubans, he wishes to know whether the Cubans have, or have not, abolished slavery. "*Until this is settled, we must wait.*"

It is truly fortunate for us to find the question reduced to so simple a form. Thus, we are enabled to keep aloof from the affair of the *Alabama claims*, which in no way affects Cuba, and should not, therefore, exert any unfavorable influence on her rights and interests.

We feel, however, that both the ideas of sending to Cuba prompt, efficacious, and decisive help, and of claiming from England just retribution for her practical and manifest hostilities against the American Union during the four years of the secession war, far from being contradictory to each other are, in reality, so perfectly harmonious as to constitute two different forms for expressing the same thought.

Both mean the exclusion of Europe from American questions, and abstention from all interference or influence in the

countries of the New World. Both imply the punishment and redress for a decided hostility towards this great Republic, still less dissembled, and undoubtedly more outspoken on the part of Spain than of England. Both imply that it is impossible to maintain, or even to sympathize with, a system which is based on slavery and on the degradation of man. Both—why proceed further? Does it not suffice to prove that both ideas are harmonious and not in contradiction to each other, to find them united and cherished by a large and respectable portion of this people? Are they not conjointly sustained at the same time by some of their most distinguished public men of every party? Do not the majority of the people, whose common sense is so accute, view them as two subjects having equal claim to their support?

We hold, and experience confirms our assertion, that the two parallel questions of the Alabama claims, and the recognition and aid to the Republic of Cuba, can be certainly maintained without any incoherence or contradiction. But we repeat, that we ought not to meddle with a question which is not our own; and that, looking into our state of affairs, and considering it in the light in which Mr. Sumner has placed it, we can not but congratulate ourselves on finding we are free to undertake a legal and historical discussion which offers little interest to most readers, and is in fact tiresome to many.

The great republican organ of this city, the *Tribune*, in its edition of the twenty-seventh of July, asserted that the Hon. Charles Sumner was incapable of making the rights of the Cubans, or any free people, subservient to a question of interest, and that no doubt he is waiting for the patriots of

Cuba to give true evidence that they are defending the cause they have at heart with force and decision, and that he may be the first to advise their recognition.

Even had the *Tribune* not thus expressed itself, we should have come to the same conclusion, because it is not possible to imagine so distinguished a statesman occupying a position inconsistent with his political antecedents and his whole brilliant public career.

But inasmuch as the honorable senator, in his speech of September 22, has expressed himself in so clear and pointed a manner, we are not left to conjecture his action in the contingency referred to.

Let us, therefore, proceed to satisfy the republican orator, and lay before him the proofs that he requires.

I.

Mr. Sumner maintains, and with reason, that "belligerence" is a fact attested by evidence." "If the fact does not exist," says he, "there is nothing to recognize. The fact can not be invented or imagined; *it must be proved.*"

He adds, elsewhere, that "a nation recognizing belligerence, where it does not exist in fact, becomes a wrong-doer."

Accepting these doctrines, it is easy to demonstrate that the belligerence of the Cubans is a fact, neither imagined nor supposed, but perfectly proved; that the Republic of Cuba exists as a nation *de facto*, independent and free; and that the

recognition we demand, and that the American people at the same time desire, far from being a bad act, would be but the yielding to evidence and the execution of an act of justice.

"I know that the Cubans are in arms," says Mr. Sumner, "but where are their cities, towns, and provinces? Where is their government? Where are their ports? Where their tribunals of justice? Where their prize courts? To put these questions," he adds, "is to answer them. How then is the fact of belligerence?"

We are ignorant upon what ground the belligerence of a people, which the honorable senator himself justly says is but *a simple fact*, should be complicated with the possession of seaports and prize courts. It would appear that, completely forgetting the native simplicity of the fact which he desires to have proved, he has taken pains to complicate it by accumulating unnecessary circumstances which, in some cases, might be impossible.

Belligerence is a fact extremely simple in its nature. A belligerent is one who makes war. *Bellum gerere*. The moment that one people is in arms against another, or the people of a section against another belonging to the same community, from that moment the fact of belligerence is established. They might be two inland countries, hence without sea coasts, seaports, and, consequently, without prize courts; and certainly such deficiency should not render impossible the fact of belligerence, nor make it in any way less positive and unworthy to be recognized.

To be in arms is precisely the point in question; and for a period of more than thirteen months the Cubans not only have

held their own against the Spaniards, but the strength of their revolution has been enough to cause the annihilation of a great Spanish army, and so spread itself over two-thirds of the island. Further than this, the Cubans have attacked the Spaniards in their stronghold, carrying away what they needed, as they have done in Puerto Principe, and lately in Las Tunas, defeating them in the ever-memorable engagements of Baire, Sigüanea, the heights of La Cruz, Las Minas, Sabana Nueva, Puerto del Padre, Manati, Ramon, and in many others of less importance in which the Fabian policy has been a wonderful success.

Belligerence is neither a principle nor a right ; it is an act. As soon as a party rises to arms and carries on a war, it becomes a combatant—a belligerent. More than this, when a civil war is lighted up in a nation, the opposing parties can not be considered by neutral governments other than independent. (VATTEL: Book iii. chapter 14.) This is the recognized practice among the nations, and the doctrine still held by this government in some analogous circumstances.

When, in 1836, the flag of Texas was admitted into the port of New York, the language of the State Department at Washington was as follows :

“ It was notorious that, in the former wars between Spain
 “ and her South-American colonies, the ships of the provinces
 “ had been admitted from the commencement of the revolu-
 “ tion into the ports of the United States, *whatever the flag*
 “ *might have been*, and that it was not less certain that, in the
 “ different internal struggles which had happened in these
 “ same States, the ships of either party had been admitted.”

Therefore, it is not only the international law but the practice hitherto observed by this government that cause the Cuban people to be entitled to the recognition they desire. They must be regarded as an independent Power, and their flag admitted into the ports of the Union in the same manner as Texas in 1836.

To the preceding declaration, the Secretary of State added these remarkable and important words: "*It had NEVER been considered necessary to make a proclamation with respect to the extension of the right of hospitality, or to balance the probabilities of success, or to determine these points definitively, having judged it sufficient that one of the parties had proclaimed its independence, and had maintained it in a positive manner. Such has been the policy hitherto followed by the United States.*"

In consequence of this doctrine, which Mr. Sumner will no doubt respect, is it proper to inquire whether the progress of the war in Cuba is or is not favorable to the Cubans? Must it be considered whether the Cuban people has, or has not, the probability of success? Will the United States of America, setting aside the policy always followed by them, look upon the Cuban question in such a different point of view, and *balance the probabilities* of a final triumph?

No. The American Government and Mr. Sumner, in accordance with both law and practice, are bound to recognize the Republic of Cuba as an independent nation. Let this be done, and sixty days will be enough to cause the Cuban flag to predominate throughout the whole extent of the island.

We ought not to inquire, then, where are their victories, their towns, and their cities. We ought only to consider whether a *declaration of independence* has been *proclaimed*, and *whether they have maintained it in a positive manner*.

To put these questions, we also say, is to answer them. The facts are notorious, and must be admitted.

The American nation is not neutral in this conflict. Her sympathies are all with the people of Cuba, and with her sympathies, her interests, as well as that political attraction mentioned by the last President in one of his messages.

Why, then, disregard these precedents, and act in contradiction to those interests and those sympathies, requiring from Cuba what has not been asked in the other cases? Why not rely on respectable authorities like Vattel, Wheaton, and others, and PROCEED in the actual case, as this same government did in 1836? Why establish an unfounded distinction between cases that do not differ in any way?

But, proceeding in the task of answering the questions of Mr. Sumner, can we believe that he is the only American who does not know that the Republic of Cuba has an actual existence, and that she possesses a territorial extent that comprises about two-thirds of the whole island? Does he not know that in all this portion of the country the Spaniards only hold a few places on the sea-coast, and a few insignificant and isolated towns? Does he not know that in the large towns under their control they are besieged, deprived of all kinds of resources, and unable to supply themselves, except by continued fighting, involving the loss of

many convoys taken by the insurgents? Is he not aware that they have an established government, acting in the most regular manner? Does he not know that they have a Congress, that holds its sessions in the town of Guaimaro, has invested with authority the President, organized the country, discussed and voted a provisional Constitution? Is it new to him that they have Ministers and Envoys in this Republic, in that of Mexico, Venezuela, Peru, France, and in England? Does he doubt that the Republic of Peru has recognized that of Cuba as an independent nation, and that other South American Republics have granted to her belligerent rights?

The Hon. Charles Sumner is aware of all this. In fact, he could not ignore it. He has said that slavery had been abolished and afterward re-established by a decree. If no regular government exists in Cuba, could the decree abolishing slavery be annulled by another decree, as he supposes? In either case, an executive organization was indispensable; such an organization constitutes the government he requires.

One of the best proofs we have of the belligerence of the Cubans, and of the existence of the Republic of Cuba as a *de facto* independent power, can be seen in the irrecusable acknowledgment that the Spanish party have recently made in Havana.

There is nothing more Spanish or more Anti-Cuban than the senseless organ of the volunteers named "*La Voz de Cuba*." Let us read in its edition of October 11, 1869, the article reproduced by the papers of this city, in which the Spanish writer urges the volunteers to go to the field, and

laments the loss of the 26,000 men of the regular army which have fallen in battle with the Cubans. We shall find there these important and very significant words: "Shall we have to repeat that in Guaimaro, within four days' travel of Havana, two of them by sea, the flag of the traitors was unfurled eight months ago, and that, in spite of us, is waving still with arrogance and defiance? that the insurgents hold there their Congress, enact laws and decrees, publish their journals, and perform all the acts of sovereignty?"

The Spanish organ has answered Mr. Sumner. Let him say, in the presence of these facts, whether the belligerence of the Cubans is not thoroughly demonstrated.

II.

The second point in the Cuban question to be examined, in the opinion of the Hon. Charles Sumner, is the one in relation to the abolition of slavery.

"There is another question in their case," says he, "which is with me final. Even if they come within the prerequisites of international law, I am unwilling to make any recognition of them so long as they continue to hold human beings as slaves. A decree, in May last, purporting to be signed by Cespedes, abolished slavery; but I am not sure of this decree, especially in view of another, in July, purporting to come from the same authority, maintaining slavery. *Until this is settled we must wait.*"

If that is the only thing to be waited for ; if that is the only obstacle to be removed ; if the cause of the freedom of the colored people is as *final* with Mr. Sumner as he assures us ; long since the Republic of Cuba ought to have been recognized and openly assisted by the United States in its struggle against the Spanish Government. Because it is Spain, not Cuba, the upholder of slavery ; because it is Cuba, not Spain, who has abolished slavery, and granted to the freedmen the same rights bestowed on the white men, their brothers.

Our minister in Washington has officially answered the erroneous assertions of the honorable senator. We consider him fully convinced in face of an evidence of such a formal and authorized character. We wish to show, however, by means of facts drawn from history, that the Cubans have always abhorred slavery, while the Spanish Government has been, and still is, the upholder of that institution as a medium of control in the island. Although, at the same time, the most complete evidence will be derived that, by arising obstacles in this country, by the progress of the revolution in Cuba, and by not giving to the Cubans the aid and resources they want, the cause of the maintenance and perpetuation of slavery is effectually favored and sustained. So it will be seen by what singular means and ways the honorable senator—an abolitionist—and this government—a republican one—allowing everything to the Spaniards and granting nothing to the Cubans, are efficiently working for holding in chains, under slavery, the colored people of that portion of the island where the decrees of our government can not be carried into practice

yet. What a curious spectacle to be witnessed by our age: the leaders of abolitionism in this country going hand in hand with the slave-holders and the slave-traders in Havana!

Cuban people have always been the most earnest enemies of slavery and slave-trade. They have always understood the demoralizing effects of that institution. They have always looked upon slavery as a great obstacle in the consummation of the most noble and holy aspiration of their lives—the freedom of their native country.

As far back as the year 1794, our distinguished countryman, Francisco de Arango, claimed and urged Spain to destroy slavery and encourage white immigration in the island of Cuba. Never has any Cuban, distinguished or not distinguished, published or written anything whatever in favor of slavery. We can also affirm that while the Cubans were so strongly decided in such a course of justice and convenience, Spain and the Spanish residents in the island did their utmost to maintain the slave-trade and so increase and perpetuate slavery, enforcing laws and persecuting as rebels and traitors those who opposed it.

Among the most remarkable facts we can bring forth, in relation to our statement, must be remembered the address made to the Captain-General of the Island on the twenty-ninth of November, 1843, signed by NINETY-TWO Cuban planters. "The time has come, your Excellency," said they, "to put an end in this country to that illegal traffic, shame of our civilization, horrid abyss where all our hopes of security and future welfare are buried, hydra that frightens the capitalists

“and prevents them coming to establish themselves on our shores, and drives off those who have acquired their riches here to carry them to other places where they may enjoy the fruits of their labor without fearing any disturbance.”

D. Leopold O'Donnell was at the time the captain-general of the island. His despotism, even unequaled by the most absolute Pacha, grew wild with that address. He had it laid aside in the archives, refusing to consider it or to pay any attention to the signers, and dismissed them with a severe warning. (Zamora, “Biblioteca”: Art. “Esclavos.” Cochin: “Abolition de l'Esclavage,” ii. 213.)

The Cubans were not discouraged by this disappointment. In February, 1844, the most respectable natives of Havana signed another address of the same purport. General O'Donnell considered that step like an act of rebellion, and, reddened with anger, took the paper and tore it into pieces in the presence of the committee who had delivered it to him.

O'Donnell received one ounce (\$17) for every negro landed in Cuba; and according to the English Commissary's report, quoted by Cochin, he put to death, by whipping and shooting, more than three thousand of those wretched beings, and sent to exile about one thousand more!

In 1849, Domingo de Goicouria, one of the Cuban generals, addressed ex-Queen Isabella, submitting to her a scheme for the immigration of white families into the island, and for the division of labor in the sugar-plantations, the final result of which should have been the practical extinction of slavery. This scheme was laid before the officers of the Ministry in Madrid.

In 1854, the Spanish Government was compelled to treat that question. The Earl of San Luis, then the Premier, wrote a message to the Queen, suggesting to her some royal decrees in reference to this matter; and it is very curious to bring to mind the strange and sometimes cynical assertions stamped by him in his work. He never spoke of the treaties agreed to with England on the slave-trade without adding in a regretful tone this phrase: "*in whatever way these treaties may be qualified.*" He always argued that "slavery was a necessity in Cuba, and unavoidable its maintenance, in spite of all its inconveniences." He went even so far as to propose favoring by all means, in the island of Cuba, the increase of the negro population, "*of that necessary race,*" as he said, and to advise the slaveholders "*to devote large sums of their money to the reproduction and breeding of the slaves, as it happens in other countries!*"

It has always been so evident that all the blame, in regard to slavery and slave-trade, is on the part of Spain and of the Spanish residents in Cuba, that the English Government did not hesitate to consign this fact for permanent preservation in an important document. Lord Aberdeen stated in a diplomatic note, dated the second of May, 1844, that *the officers of the Spanish Crown were greatly interested* in the maintenance of the slave-trade, the cupidity of the government being the *true cause* of this inhuman trade having been imposed on the colony, notwithstanding its obvious dangers, and *the great dissatisfaction of the Cuban proprietors*, with the only object to enrich the captain-general.

Some time after, Lord Howden, the English Premier, ad-

vised the Spanish Government of the necessity of abolishing slavery in the colonies ; and it is noteworthy the answer given by the Marquis of Miraflores, Spanish Minister of Foreign Affairs at the time, drawing the noble lord's attention on the damages that would be inflicted by such an action upon the prosperity and welfare of the subjects of Her Majesty in the island of Cuba. Lord Howden replied that, following these logical and well-founded principles, it was required likewise to procure the prosperity and welfare of so many thousands of negro slaves, who were also the subjects of Her Majesty, and entitled on that account to her motherly benevolence and protection.

The Spaniards have always been the leaders of slavery and slave-trade. Zulucta, who used to mark his negroes with a Z, generally impressed on their abdomen by a *candent iron*, is to day a colonel of the voluntarios, powerful in Havana, and has devoted himself to the slave-trade with such a boldness that, notwithstanding his influence, has been tried and confined as a prisoner in a fortress for a short time. Another wealthy Spaniard, Baró, used also to mark his slaves with a B ; Durañona, Plá, Argudin, Duran y Cuervo, Calvo—everybody knows them in Havana as prominent slave-traders. Everybody in Cuba is also convinced that the words *Spaniard* and *upholder*, or at least *furtherer*, of slavery and slave-trade are synonymous.

On the contrary, how many leading Cubans have been persecuted for their opinions on the abolition of slavery : Foré, Antonio Saco, Domingo del Monte, Benigno Gener, Gaspar Betancourt Cisneros, José de la Luz, Manuel Martinez, Serrano,

and many others have been imprisoned, or banished, or compelled to fly away from their country on that account. Who does not know the careful watchfulness exercised over the Cubans for their sympathies, so strongly marked toward the cause of the Union, during the great rebellion of the South.

As soon as any act of abolitionism was accomplished, the interference of the government became inevitable. A worthy family of Havana decided to commemorate Christmas by freeing all their slaves, twenty-eight in number. They did so; but afterward were compelled to call on the Captain-General Dulce, who showed himself uneasy by this act, to explain their conduct and present their apologies.

Another family, owner of a sugar plantation, decided also to have christened as free every colored child born on the estate. The pastor became alarmed by the repetition of these kinds of baptisms, and giving notice to the governor of the locality, they met with difficulties and had to apologize.

In 1865, several Cubans intended to enter into an association with the view of stopping the slave-trade. At first the governor of the island, General Dulce, seemed to authorize the projects; but soon after withdrew his permission, not even allowing the association to be officially constituted.

The reading of the Havana leading journals during the late war of the United States would be enough proof in favor of our assertion. The *Diario de la Marina*, a Spanish newspaper, was openly confederate. None has surpassed it caricaturing and indulging gross insults on President Lincoln and on the republican party. It was the author of the epithet

"*cal y canto*," applied to General Stonewall Jackson. Captain Semmes, its favorite hero, was named a "*campecharro*." The very day that the surrender of Pittsburg was announced it proclaimed the triumph of the South more than ever sure! "*El Siglo*," a Cuban leading journal, on the contrary, always liberal, always federal, and always favoring abolitionism, never failed to express these opinions as far as the government's censorship allowed.

On the other hand, the feeling of the colored people in Cuba is an ineluctable fact in our favor. They love the Cubans and hate the Spaniards; more than hate the Spaniards—they look on them with contempt. Nothing is compared to the disdain with which they call them "*gallego*" or "*catalan*." The worst insult that can be offered to a colored woman is to suppose her the mistress of a Spanish *bodeguero*.

Now, after the September revolution in Spain, and of such boasted liberalism, has not Marshal Serrano said to Emilio Castelar that he ought to have in mind the existence of slavery in Cuba? Has he not been seen complying with that execrable institution? Nevertheless, the Spanish Government might have had a good precedent to take a decisive step in regard to the slaves.

In 1866, by the order of the Spanish Government, twenty-two commissioners of Cuba and Porto Rico met at Madrid to manifest their views on the government and administration of the colonies. The labors of this assembly demonstrated a disposition on the government, and its appointed representatives, in favor of slavery; and an open and firm desire and re-

commendation to emancipate the slaves on the part of the commissioners elected by Cuba.

Of the commissioners, fourteen signed the report in favor of emancipation; of those who did it, Nicholas Azcúrate is at Madrid, a well-known abolitionist; José Antonio Echevenia is expelled from Havana; and José Morales Lemus is our Cuban Minister in Washington.

Among the commissioners not elected by the Cuban corporations, but appointed by the government, is to be found the only report against emancipation.

Where, therefore, these facts being undoubted, does Mr. Sumner find reasons to suspect the real abolitionary feeling of the Cubans?

The question is at present perfectly settled. It would not be just to wait any longer. Neither the honorable senator, nor the administration, nor this great American people, can desire the Cuban freedmen to be enslaved again by the Spaniards, nor that this blood people shall continue in their *national* system of holding human beings as slaves.

We have finished our task. Both of the two facts that were to be proved, in the opinion of the honorable senator of Massachusetts, have been plainly demonstrated. Cuba is a belligerent and an independent country. Cuba has abolished slavery and proclaimed the absolute equality of rights, according to the moral law, and the christian principle of universal fraternity.

What else is required?

May the honorable senator, following the example of his dis-

tinguished friends, the most eminent leaders of the republican party in this country, and obeying his own philanthropic and christian feelings, come decidedly to our aid, to support our noble cause, with all the strength of his powerful mind and influence! May he be, like Mr. Rawlins, Mr. Butler, Mr. Wade, Mr. Beecher, Mr. Banks, and many other prominent republicans, an earnest and enthusiastic defender of the liberty of our country!

NEW YORK, October, 1869.

THE CUBAN CONSTITUTION.

ADOPTED by the Constitutional Convention, and unanimously approved by the Cuban Congress assembled at Guaimaro, the Provisional capital of the Republic, on the tenth day of April, A.D. 1869, and the first year of the Independence of Cuba.

ARTICLE I. The Legislative Power shall be vested in a House of Representatives.

II. To this Body shall be delegated an equal representation from each of the four States into which the Island of Cuba shall be divided.

III. These States are *Oriente*, *Camaguey*, *Las Villas*, and *Occidente*.

IV. No one shall be eligible as Representative of any of these States except a citizen of the Republic who is upward of 20 years of age.

V. No Representative of any State shall hold any other official position during his representative term.

VI. Whenever a vacancy occurs in the representation of any State, the Executive thereof shall have power to fill such vacancy until the ensuing election.

VII. The House of Representatives shall elect a President of the Republic, a General-in-Chief of its armies, a President of the Congress, and other executive officers. The General-in-Chief shall be subordinate to the Executive, and shall render him an account of the performance of his duties.

VIII. The President of the Republic, the General-in-Chief, and the Members of the House of Representatives are amenable to charges which may be made by any citizen to the House of Representatives, who shall proceed to examine into the charges preferred; and if, in their judgment,

it be necessary, the case of the accused shall be submitted to the Judiciary.

IX. The House of Representatives shall have full power to dismiss from office any functionary whom they have appointed.

X. The legislative acts and decisions of the House of Representatives, in order to be valid and binding, must have the sanction of the President of the Republic.

XI. If the President fail to approve the acts and decisions of the House, he shall, without delay, return the same with his objections thereto, for the reconsideration of that body.

XII. Within ten days after their reception, the President shall return all bills, resolutions, and enactments which may be sent to him by the House for his approval, with his sanction thereof, or with his objections thereto.

XIII. Upon the passage of any act, bill, or resolution, after a reconsideration thereof by the House, it shall be sanctioned by the President.

XIV. The House of Representatives shall legislate upon taxation, public loans, and ratification of treaties; and shall have power to declare and conclude war, to authorize the President to issue letters of marque, to raise troops and provide for their support, to organize and maintain a navy, and to regulate reprisals as to the public enemy.

XV. The House of Representatives shall remain in permanent session from the time of the ratification of this fundamental law by the people until the termination of the war with Spain.

XVI. The Executive power shall be vested in the President of the Republic.

XVII. No one shall be eligible to the Presidency who is not a native of the Republic, and over 30 years of age.

XVIII. All treaties made by the President may be ratified by the House of Representatives.

XIX. The President shall have power to appoint ambassadors, ministers-plenipotentiary, and consuls of the Republic to foreign countries.

XX. The President shall treat with ambassadors, and shall see that

the laws are faithfully executed. He shall also issue official commissions to all the functionaries of the Republic.

XXI. The President shall propose the names for the members of his Cabinet to the House of Representatives for its approval.

XXII. The Judiciary shall form an independent co-ordinate department of the Government, under the organization of a special law.

XXIII. Voters are required to possess the same qualifications as to age and citizenship as the members of the House of Representatives.

XXIV. All the inhabitants of the Republic of Cuba are absolutely *free*.

XXV. All the citizens are considered as soldiers of the Liberating Army.

XXVI. The Republic shall not bestow dignities, titles, nor special privileges.

XXVII. The citizens of the Republic shall not accept honors nor titles from foreign countries.

XXVIII. The House of Representatives shall not abridge the freedom of religion, nor of the press, nor of public meetings, nor of education, nor of petition, nor any inalienable right of the people.

XXIX. This Constitution can be amended only by the unanimous concurrence of the House of Representatives.

NOTA BENE—Here follow the signatures of CARLOS MANUEL DE CESPEDES, President of the Convention, and of all of the Delegates.

We, the undersigned, hereby certify and declare that the foregoing is a correct and faithful translation of the Cuban Constitution, and of each and every article and clause thereof, and that the same is the fundamental and supreme law of the Republic.

Done by order of the Junta Cubana, at the city of New York, in the United States of America, this 17th day of November, A.D. 1869, and the second year of the Independence of Cuba.

MIGUEL DE ALDAMA, *President*.

J. M. MESTRE, *Secretary*.

SLAVERY IN CUBA.

ELOQUENT REFUTATION OF MR. SUMNER'S SPEECH.

The *Anti-Slavery Standard* this week forcibly removes the only support to Mr. Sumner's lame excuse for lack of practical sympathy with the Cuban revolutionists, by publishing the following letter and sustaining its statements in a strong leading editorial :

NEW YORK, September 23, 1869.

TO MR. CHARLES SUMNER,

Senator for Massachusetts :

SIR—In January last, at the Anti-Slavery Conference in Boston, I had the honor of publicly stating, in the name of the Cuban insurrectionists, and in answer to certain calumnies then afloat, that Cespedes and his party unhesitatingly accepted the necessity of the abolition of slavery in Cuba, and that their best and most willing exertions sought for immediate and unconditional emancipation. The gist of my statement was, at the same date, embodied in one of the resolutions of the Massachusetts Anti-Slavery Society.

At an interview which I had with you in April last, I spoke to the same purpose. You probably have forgotten my remarks. I refer to these two occasions only to show that so early as in January the public mind was directed to this question, and that, at the latest, in April, your own attention was asked to it also.

I find in the published reports of your speech at Worcester, before the Republican State Convention, on the 22d inst., the following paragraph, which, if correctly reported (I copy from the *Tribune*), must, of course, be taken as your deliberate utterance. It is not before such an audience and upon so grave a question as one involving the honor of one country and the liberty—it may be the life—of another, that a

man like Charles Sumner speaks without duly weighing the purport and importance of his words. You are reported to have said—speaking of the Cubans and their claims to be recognized as belligerents :

“There is another question in their case which is with me final. Even if they come within the prerequisites of international law, I am unwilling to make any recognition of them so long as they continue to hold human beings as slaves. A decree, in May last, purporting to be signed by Cespedes, abolished slavery ; but I am not sure of this decree, especially in view of another, in July, purporting to come from the same authority, maintaining slavery. Until this is settled we must wait.”

What, Mr. Sumner ! coming forward as the reverend adviser of your State in one of its highest functions, can you only counsel abstinence from action until you have settled a question which you think should be conclusive (one way at least), but which from July to September you have not troubled yourself to settle even to your own satisfaction, although it be only an inquiry as to the authenticity of two contradictory documents, proof concerning which has always been at your command ?

What, Mr. Sumner ! taking honorable rank among those ennobled by their sympathy for the slave, do you forbid our sympathy with the Cuban slave, declaring yourself willing to hand him back to Spanish bonds, because you do not know for certain, and do not care to know, whether Cespedes has made him free or not ?

Cespedes has made him free, be you never so loath to recognize the fact. On the 27th of December, 1868, Cespedes, in his capacity as Captain-General of the Army of Liberation, decreed the abolition of slavery, which decree was affirmed by the Assembly of the leading patriots of the Central Department on the 6th of February following, and reaffirmed as an integral part of the Constitution of the Republic, agreed to at Guaimaro on the 10th of April, 1869, according to which, Article 24, “*All the inhabitants of the Republic are entirely free.*” Entirely—the Spanish word is *enteramente*. What Mr. Sumner means by his two contradictory decrees of “May” and “July” some Spaniard may be able to tell. No Cuban can inform me.

I add that the conduct of Cespedes since (as also during his whole life), has been in strict conformity with that December decree, and that no other proclamation has been issued, or act done by him, or with his authority to contradict, or contravene, or in any way to counteract or invalidate that.

If you will not credit this on the assertion of those friends of Cuba, and of slave emancipation in Cuba, whose integrity and reliability can be vouched for by your own personal friends, by your tried comrades in

the Anti-Slavery party, then bring forward your Spanish friends, Mr. Sumner, to disprove my statement. Yet *El Cronista*, the organ of the extremest Spanish party, only last week made an argument against the patriots on the very ground of this well-known emancipation of the slaves. Truly, Mr. Sumner, for a man specially interested in questions of slavery, you must have had some difficulty in maintaining so satisfactory an ignorance.

The cause of Cuban freedom is the cause of the black as well as of the white. The dullest Spanish "Volunteer" knows this, if the Massachusetts senator does not. Is there none, except a man so prominent among American Republicans and Abolitionists, to stand foremost against the liberties of Cuba?

Let General Sickles pursue his intrigues for annexation. On that ground it may be expedient to delay the recognition of independence. What matter how black or white may suffer, or how long, or with what old Spanish horrors the contest be embittered and prolonged, if so new territory may be stolen. The game there is clear enough—increase of empire at the cost of the annexed. But Sickles and his party at least are free from the cant of an ex-Abolitionist's tender conscience, from the pretense of sympathy for the Cuban slave.

Sympathy for the Cuban slave! Since Cespedes began the war of emancipation, nigh twelve months ago, Charles Sumner, the eminently liberal statesman of America, the head—if not the heart—of the very Republican party, has not found a precedent to justify him in one generous word toward a new Republic; Charles Sumner, the old-time Abolitionist, has not even asked for a justification to plead the cause of abolitionism in Cuba.

Butler, and Banks, and Rawlins could frankly give expression to at least some words of good-will, of encouragement, and hope; Sumner only mutters in bad Spanish his slander and his doubt. Nay, it is not slander, it is but a politic hesitation, the prudent statesman's halt. Behold him on his pedestal of legal precedents, self-satisfied though he find not a precedent for American independence in the whole lot. How the forensic drapery becomes him! In either hand he fumbles a proclamation, and looks in his bewilderment from one to the other, waiting for some one to tell him which is genuine and which forged before he can advise his listeners to do anything but—"wait!"

And when that is settled he will be no readier. He will still have to sit down among his volumes and pore over them to seek his precedent—a precedent he does not want to find. Does he not tell us that Poland and Hungary were as far off as Cuba from any right to recognition as

belligerents, from any right to fight against tyranny and be recognized as true fighters by those who themselves have rebelled against and overcome their tyrants? Nay, does he not tell New England that he places Poland, Hungary, and Cuba all in the same category *with the South*, branding them all as rebels—yes, gentlemen, all rebels! I, Charles Sumner, can find no precedent for recognizing them as anything else. Then, having sunk the Republican in the “Statesman,” he loses the Statesman in maundering about the Alabama; and Cuba must be sacrificed lest his old monarchical acquaintances, the politicians and publicists of Europe, should say that Mr. Sumner is inconsistent.

Let the Alabama stand on its own merits, Mr. Sumner! If England has done the wrong you say, be sure the penalty will have some day to be exacted, whatever happens to your arguments. Destiny can spare the biggest flies that pose themselves upon her chariot wheels. But beware now of wrong to Cuba! That is the question of the hour, and one question at a time may be enough even for statesmen of a considerable bore.

But is there no precedent for action in the case of Cuba? Step from Worcester to the Capitol! There is a monument upon Bunker's Hill. Do justice to Cuba as your fathers there did justice to themselves—for the sake of justice, and not for policy or greed. Do justice with only that for precedent. Do justice, though your Alabama speech be stultified. Better spoil that than stultify the soul and spoil the fame of a consistent abolitionist with the unmanly quibble that you can not distinguish the proclamations of Céspedes, and have been too indifferent to read his course.

A scholar, making of established forms your idols, a student of books rather than an observer of the course of living men, you have read but not learned history; and the science of politics is something quite distinct from the charlatanry of diplomatists. We might forgive you for your unrepugnant sympathies, seeing you have not yet been weaned from constitutionalism, but we had a right to look for soundness on the one question of black slavery. When Charles Sumner, the honorable senator for Massachusetts, is remembered in history, will his epitaph be read for anything of more worth than this—*He also was of the Anti-Slavery party?* Must we efface that line to write—*He hindered the emancipation of the Cuban slave?*

That brief paragraph of your unhappy speech at Worcester has given the lie to the long life of the abolitionist. As it was with Webster, so it is with you: the Statesman has betrayed the Man.

W. J. LINTON.

JUSTICE TO CUBA.

CUBAN BELLIGERENCY ACKNOWLEDGED BY THE UNITED STATES ACCORDING TO IMPORTANT OFFICIAL DECLARATIONS—THE COURTS OF THE UNION BOUND TO DEAL WITH THE CUBANS AS BELLIGERENTS.

The United States Government has acknowledged the existence of a civil war in Cuba, inasmuch as it has mediated between the contending parties, or at least tendered its good offices to settle the difficulty giving rise to that war.

In Wheaton's Reports, vol. 3, p. 610, the case of the Spanish "*Industria Raphaelli*" is referred to as follows :

"When a civil war rages in a foreign nation, one part of which separates itself from the old, established government and erects itself into a distinct government, the courts of the Union must view such newly established government as it is viewed by the legislative and executive departments of the United States.

"If that government remains neutral, but recognizes the existence of civil war, the courts of the Union can not consider as criminal those acts of hostility which war authorizes, and which the new government may direct against its enemy.

"The same testimony which would be sufficient to prove that a vessel or person is in the service of an acknowledged State is admissible to prove that they are in the service of such newly-erected government. Its seal can not be allowed to prove itself, but may be proved by such testimony as the nature of the case admits; and the fact that a vessel or person is in the service of such government may be established otherwise, should it be impracticable to prove the seal.

"The general principle applied by the writers on the law of nations in the case of a civil war considers the war (as between the conflicting parties) as just on both sides, and that each is to treat the other as a public enemy, according to the established usages of war. So, also, it is the duty of other nations to remain neutral, and not interfere with the exertion of complete belligerent rights of both parties within the territory which is the scene of their hostilities."

Dr. Franklin held that to deny belligerent rights to a State because it had not been recognized as independent is a doctrine of the dark ages, unworthy of civilized nations.

In Sparks' "Diplomatic Correspondence," vol. 3, p. 121, appears the following note to Mr. Bernstoof, Minister of Foreign Affairs in Denmark, viz. :

PASSY, December 22, 1779.

SIR—I have received a letter from Mr. De Chezauly, Consul of France at Bergen, in Norway, acquainting me that two ships, viz., the Betzey and the Union, prizes taken from the English on their coast by Captain Laudais, commander of the Alliance frigate appertaining to the United States of America, which prizes, having met with bad weather at sea that had damaged their rigging and had occasioned leaks, and been weakly manned, had taken shelter in the supposed neutral port of Bergen, in order to repair their damages, procure an additional number of sailors, and the necessary refreshments ; that they were in the said port enjoying, as they conceived, the common rights of hospitality, established and practised by civilized nations, under the care of the above said Consul, when, on the 28th of October last, the said ships, with their cargoes and papers, were suddenly seized by officers of his Majesty the King of Denmark, to whom the said port belongs, the American officers and seamen turned out of their possession, and the whole delivered to the English Consul.

Mr. De Chezauly has also sent me the following as a translation of his Majesty's order by which the above proceedings are said to be authorized, viz. :

"The English Minister having insisted on the restitution of two vessels which had been taken by the American privateer called the Alliance, commanded by Captain Laudais, and which were brought into Bergen—viz., the Betzey, of Liverpool, and the Union, of London—his Majesty has granted this demand on this account, because he has not as yet acknowl-

edged the independence of the colonies associated against England; and because that these vessels, for this reason, can not be considered as good and lawful prizes. Therefore, the said two ships shall be immediately liberated and allowed to depart with their cargoes."

By a subsequent letter from the same Consul, I am informed that a third prize belonging to the United States, viz., the *Charming Polly*, which arrived in Bergen after the others, has also been seized and delivered up in the same manner, and that all the people of the three vessels, after being thus stripped of their property (for every one had an interest in the prizes), were turned on shore to shift for themselves, without money in a strange place, no provision being made for their subsistence or for sending them back to their country.

Permit me, sir, to observe on this occasion that the United States of America have no war but with the English; they have never done any injury to other nations, particularly none to the Danish nation; on the contrary, they are, in some degree, its benefactors, as they have opened a trade of which the English made a monopoly, and of which the Danes may have now their share; and, by dividing the British empire, have made it less dangerous to its neighbors. They conceived that every nation whom they had not offended was, by the rights of humanity, their friend; they confided in the hospitality of Denmark, and thought themselves and their property safe when under the roof of his Danish Majesty. But they find themselves stripped of that property, and the same given up to their enemies on this principle only, that no acknowledgment had yet been formally made by Denmark of the independence of the United States; which is to say that there is no obligation of justice toward any nation with whom a treaty promising the same has not been previously made. This was indeed the doctrine of ancient barbarians, a doctrine long since exploded, and which it would not be for the honor of the present age to revive, and it is hoped that Denmark will not, by supporting and persisting in this decision, obtained of his Majesty apparently by surprise, be the first modern nation that shall attempt to revive it.

The United States, oppressed by and at war with one of the most powerful nations of Europe, may well be supposed incapable, in their present infant state, of exacting justice of other nations not disposed to grant it; but it is human nature that injuries as well as benefits received in time of weakness and distress, national as well as personal, make deep and lasting impressions; and those ministers are wise who look into futurity and quench the first sparks of misunderstanding between two nations, which, neglected, may in time grow into a flame, all the consequences whereof no human prudence can foresee, which may produce

much mischief to both, and can not possibly produce any good to either. I beg leave, through your Excellency, to submit these considerations to the wisdom and justice of his Danish Majesty, whom I infinitely respect, and who, I hope, will consider and repeal the orders above recited, and that, if the prizes which I hereby reclaim in behalf of the United States of America are not actually gone to England, they may be stopped and delivered to Mr. De Chezauly, the Consul of France at Bergen, in whose care they before were, with liberty to depart for America when the season shall permit. But, if they should be already gone to England, I must claim from his Majesty's equity the value of the said prizes, which is estimated at £50,000 sterling, but which may be regulated by the best information that can by any means be obtained. With the greatest respect,

BENJAMIN FRANKLIN.

CUBAN PRIVATEERS CAN NOT BE TREATED AS PIRATES.

Opinions of the Attorneys-General of the United States, etc., published under the inspection of Henry D. Gelpin. Vol. II., pp. 1065. Washington city, 1841.

ATTORNEY-GENERAL'S OFFICE, May 17, 1836.

SIR—From an examination of the various documents this day referred to me in the case of the Texan armed schooner *Invincible*, I gather the following facts:

The American brig *Pocket* sailed from New Orleans, in which port she had been duly registered, and cleared in April last for Brazos Santiago, a port within the limits of Texas. When approaching the termination of her voyage she was captured by the armed Texan schooner *Invincible*, sailing under the flag of the recently constituted republic of Texas, on the alleged ground that she was laden with provisions, stores, and munitions of war destined for the use of the Mexican army under the command of General Santa Anna, and carried into Galveston bay, where the cargo was landed and used or held by the Texan authorities, and the vessel released. These facts being made known to Commodore Dalles, the officer commanding the United States naval forces in the West Indies and the Gulf of Mexico, with a sworn appeal from the insurers and other persons interested in the protection of our commerce of those seas,

that officer deemed it his duty to regard the *Invincible* as a pirate, and to treat her as such. He, therefore, promptly despatched the United States ship *Warren*, Master Commandant Taylor, with orders to cruise for the *Invincible*, and, in the event of falling in with her, to capture her and send her to New Orleans to be delivered up for adjudication. Pursuant to these orders the *Invincible* was captured on the 29th ult., with the principal part of the crew. Both vessel and men were sent to New Orleans, and delivered to the civil authorities to be proceeded against on the charge of piracy. Under these circumstances, my opinion is required upon the question whether the charge of piracy can be sustained.

In answer to this question I have the honor to state that, in my opinion, the capture of the American ship *Pocket* can in no view of it be deemed an act of piracy, unless it should appear that the principal actors in the capture were citizens of the United States. The ninth section of the Crimes act of the 30th of April, 1790, declares "That if any citizen shall commit any piracy or robbery, or any act of hostility against the United States, or any citizen thereof, upon the high seas, under color of any commission from any foreign prince or State, or on pretense of authority from any person, such offender shall, notwithstanding the pretense of any such authority, be deemed, adjudged, and taken to be a pirate, felon, and robber; and, on being thereof convicted, shall suffer death." This provision is yet in force, and should it be found that any of those who participated in the capture of the *Pocket* are American citizens, the flag and commission of the government of Texas would be insufficient to protect them from the charge of piracy. It is, however, not suggested in the papers before me that any citizens of the United States were engaged in the capture, and if it is assumed that the actors in it were aliens, it must then, I think, be admitted that the capture, however unjustifiable in other respects, can never be regarded as piracy. Where a civil war breaks out in a foreign nation, and part of such nation erects a distinct and separate government, and the United States, though they do not acknowledge the independence of the new government, do yet recognize the existence of a civil war, our courts have uniformly regarded each party as a belligerent nation in regard to acts done *jure belli*. Such may be unlawful when measured by the laws of nations, or by treaty stipulations; the individuals concerned in them may be treated as trespassers, and the nation to which they belong may be held responsible by the United States; but the parties concerned are not treated as pirates. It is true that where persons acting under a commission for one of the belligerents make a capture ostensibly in the right of war, but really with the design of robbery, they will be held guilty of piracy. In the

present case there is not the least reason to believe that the capture was made with any such criminal intent. It would seem to be an infraction of the treaty made in 1831 between the United States and the United Mexican States (of which Texas was then a constituent part), and here may be other reasons for doubting its legality as an act done in the right of war; but that it was really done in that character, and no other, is very clear. The existence of a civil war between the people of Texas and the authorities and people of the other Mexican States was recognized by the President of the United States at an early day in the month of November last. Official notice of this fact, and of the President's intention to preserve the neutrality of the United States, was soon after given to the Mexican Government. This recognition has been since repeated by numerous acts of the Executive, several of which had taken place before the capture of the Pocket. On the assumption that the actors were aliens, the case is therefore fairly brought within the principle above stated, and the charge of piracy can not be sustained."

I am, sir, etc.,

B. F. BUTLER.

TO THE PRESIDENT OF THE UNITED STATES.

The ports of the United States should be open to Cuba on an equality with Spain, according to the following declaration of the Executive, namely :

MESSAGE OF THE PRESIDENT OF THE UNITED STATES AT THE COMMENCEMENT OF THE FIRST SESSION OF THE SIXTEENTH CONGRESS (COMMUNICATED TO CONGRESS DECEMBER 7, 1819).

In the civil war existing between Spain and the Spanish provinces in this hemisphere, the greatest care has been taken to enforce the laws intended to preserve an impartial neutrality. Our ports have continued to be equally open to both parties, and on the same conditions, and our citizens have been equally restrained from interfering in favor of either to the prejudice of the other. The progress of the war, however, has operated manifestly in favor of the colonies. Buenos Ayres still maintaining unshaken the independence which it declared in 1816, and has enjoyed since 1810. Like success has also attended Chile and the provinces north of La Plata bordering on it, and likewise Venezuela.

THE UNITED STATES ACKNOWLEDGE OFFICIALLY THE RIGHTS OF EVERY AMERICAN COLONY WHICH REVOLTS AGAINST ITS METROPOLIS.

The Union admits the flag of every insurrectionary party against the metropolitan government, provided it pays custom dues.

American State papers collected by Walter Lowry and Walter S. Franklin, vol. iv. pp. 424 and 656.

MONROE, SECRETARY OF STATE, TO MR. ORRIS, JANUARY 19, 1816.

* * * * *

You demand next that Mr. Toledo and others whom you mention, charged with promoting revolt in the Spanish provinces and exciting citizens of the United States to join it, shall be arrested and tried, their troops disarmed and dispersed.

You intimate that troops are levying in Kentucky, Tennessee, Louisiana, and Georgia for the invasion of the Spanish provinces, of whom one thousand are from Kentucky, and three hundred from Tennessee, to be commanded by American citizens; but you do not state at what points these men are collected, or by whom commanded, and as to the troops said to be raised in Louisiana and Georgia your communication is still more indefinite. The information recently obtained by this department from persons of high consideration is of a very different character. It is stated that no men are collected, nor is there evidence of an attempt or a design to collect any in Kentucky, Tennessee, or Georgia for the purpose stated, and that the force said to be assembled under Mr. Toledo is very inconsiderable, and composed principally of Spaniards and Frenchmen. If any portion of it consists of citizens of the United States their conduct is unauthorized and illegal. This force is not within the settled parts of Louisiana, but in the wilderness, between the settlements of the United States and Spain, beyond the actual operation of our laws.

I have to request that you will have the goodness to state at what points in Kentucky, Tennessee, Louisiana, and Georgia any force is collected, the number in each instance, and by whom commanded. If such force is collected or collecting within the United States for the purpose suggested, or other illegal purpose, it will be dispersed and the parties prosecuted according to law.

The government is under no obligation, nor has it the power by any law or treaty to surrender any inhabitant of Spain or the Spanish provinces on the demand of the government of Spain; nor is any such inhabitant punishable by the laws of the United States for acts committed beyond their jurisdiction, the cases of pirates alone excepted. This is a

fundamental law of our system. It is not, however, confined to us ; it is believed to be the law of all civilized nations where not particularly varied by treaties.

In reply to your third demand—the exclusion of the flag of the revolting provinces—I have to observe that, in consequence of the unsettled state of many countries, and repeated changes of the ruling authority in each, there being at the same time several competitors and each party bearing its appropriate flag, the President thought it proper some time past to give orders to the collectors not to make the flag of any vessel a criterion or condition of its admission into the ports of the United States.

Having taken no part in the differences and convulsions which have disturbed those countries, it is consistent with the just principles as it is with the interests of the United States to receive the vessels of all countries into their ports, to whatever party belonging, and under whatever flag sailing, pirates excepted, requiring of them only the payment of the duties and obedience to the laws while under their jurisdiction, without advertng to the question whether they had committed any violation of the allegiance or laws obligatory on them in the country to whom they belonged, either in assuming such flag, or in any other respect.

In the differences which have subsisted between Spain and her colonies the United States have observed all proper respect to their friendly relations with Spain. * * * All that your government had a right to claim of the United States was that they should not interfere in the contest, or promote by any active service the success of the revolution, admitting that they continued to overlook the injuries received from Spain, and remained at peace. This right was common to the colonists. With equal justice might they claim that we would not interfere to their disadvantage ; that our ports should remain open to both parties, as they were before the commencement of the struggle ; that our laws regulating commerce with foreign nations should not be changed to their injury. On these principles the United States have acted.

I have the honor to be, etc.,

JAMES MONROE.

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